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OBJECTION OF RESPONDENT TO MOTION ON BEHALF OF CONGRESS OF INDUSTRIAL ORGANIZATIONS FOR LEAVE TO FILE A BRIEF AMICUS CURIAE ON PETITION FOR REHEARING OF ORDER DENYING PETITION FOR WRIT OF CERTIORARI

IN THE

Supreme Court of the United States

OCTOBER TERM, 1951

No. 293

UNITED STATES OF AMERICA, PETITIONER

v.

LANCE, INCORPORATED, RESPONDENT

FRANK H. KENNEDY,
Charlotte, North Carolina

WILBORN B. CODY,
Atlanta, Georgia
Counsel for Respondent

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Rule 27 of the Supreme Court, paragraph 9(b), seems to require that consent of the parties be asked and refused before a motion to be permitted to file a brief as amicus curiae may be made. Consent of the respondent for the filing

of such a brief was not asked, but if it had been asked, it would have been refused.

The reasons of the respondent for withholding consent are as follows:

Rule 27 of the Supreme Court, paragraph 9(b), states that "a brief of an amicus curiae . . . may be filed only if submitted a reasonable time prior to the consideration of . . . a petition for writ of certiorari". It would be impossible for the movant to present a brief in compliance with this rule, since the petition for writ of certiorari has already been denied.

Rule 27, paragraph 9(c), of the Supreme Court provides: "When consent to the filing of a brief of an amicus curiae is refused by a party to the case, a motion, independent of the brief, for leave to file may timely be presented to the court." This motion is not timely, coming as it does after the petition for certiorari has already been denied.

Rule 27, paragraph 9(c), of the Supreme Court also provides that a motion for leave to file a brief as amicus curiae "shall . . . set forth facts or questions of law that have not been, or reasons for believing that they will not adequately be, presented by the parties, and their relevancy to the disposition of the case". The motion is devoid of any such facts or questions of law. The motion does not even attempt to comply with this requirement. The movant makes no claim that the Solicitor General has not fully presented the case.

It would seem that the real interest of the movant and its members would be for the Labor Department to be re-

quired to bring suits promptly under the Walsh-Healey Act rather than for the Labor Department to have the power to postpone such suits indefinitely.

Respectfully submitted,

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